

General Instructions

Section and subtitle A references are to the Internal Revenue Code unless otherwise noted.

Purpose of Form

Specified tax return preparers use Form 8944 to request an undue hardship waiver from the section 6011(e)(3) requirement to electronically file returns of income tax imposed by subtitle A on individuals, estates, and trusts. Unless the IRS approves an applicant's Form 8944 hardship waiver request or some other exception applies (see the instructions for Form 8948, Preparer Explanation for Not Filing Electronically), any covered return prepared by a specified tax return preparer must be filed electronically if the return is filed by the specified tax return preparer. For more information on who is considered a specified tax return preparer, and the returns to which this requirement applies, see *Specified Tax Return Preparer* and *Covered Returns*, below.

There are certain administrative exemptions to the e-file requirement. These exemptions are not the same as, and are separate from, a hardship waiver. If the covered returns you are preparing for a taxpayer meet the criteria for an administrative exemption, or you are a specified tax return preparer who meets the criteria for an administrative exemption, do not use Form 8944. Instead, use Form 8948. See Notice 2011-26, 2011-17 I.R.B. 720 and the instructions for Form 8948 for more information.

Specified Tax Return Preparer

A specified tax return preparer is a tax return preparer, as defined in section 7701(a)(36) and Regulations section 301.7701-15, who is a preparer of covered returns and who reasonably expects (if the preparer is a member of a firm, the firm's members in the aggregate reasonably expect) to file 11 or more covered returns during a calendar year.

Aggregate Filing of Returns. For the e-file requirement, "aggregate" means the total number of covered returns that are reasonably expected to be filed by the firm as a whole. For example, if a firm has 2 preparers and each preparer in the firm reasonably expects to prepare and file 6 covered returns, the aggregate for the firm equals 12 covered returns, and each preparer is a specified tax return preparer.

Covered Returns

Covered returns include any return of tax imposed by subtitle A on individuals, estates, or trusts. This includes any return of income tax in the Form 1040 series such as Form 1040, U.S. Individual Income Tax Return; Form 1040A, U.S. Individual Income Tax Return; and Form 1040EZ, U.S. Income Tax Return for Single and Joint Filers With No Dependents. It also includes Form 1041, U.S. Income Tax Return for Estates and Trusts and Form 990-T, Exempt Organization Business Income Tax Return, when the exempt organization is a trust subject to tax on unrelated business taxable income under section 511(b). Note that a waiver is not needed for Form 990-T because it cannot currently be filed electronically. Also, a waiver is not needed for any other return that is not accepted electronically by the IRS or the IRS has instructed taxpayers not to file electronically.

When a Return is Considered Filed by Preparer

For the e-file requirement, a return is considered filed by a preparer if the preparer or any member, employee, or agent of the preparer or the preparer's firm submits the tax return to the IRS on the taxpayer's behalf, either electronically or in paper format. For example, the act of submitting includes having the preparer or a member of the preparer's firm drop the return in a mailbox for the taxpayer. Acts such as providing filing or delivery instructions, an addressed envelope, postage estimates, stamps, or similar acts designed to assist the taxpayer in the taxpayer's efforts to correctly mail or otherwise deliver a paper return to the IRS do not constitute filing by the preparer as long as the taxpayer actually mails or otherwise delivers the return to the IRS.

Who May File

If you are a specified tax return preparer who is required to file individual, estate, or trust tax returns electronically, and filing these returns electronically would be a hardship, use this form to request a waiver. After evaluating your request, the IRS will notify you in writing whether your request was approved or denied.

When To File

Hardship waiver requests must be submitted from October 1st of the year prior to the calendar year for which you are making the request through February 15th of the calendar year for which you are making the request. For example, if you were requesting a waiver for calendar year 2012, the request must be submitted between October 1, 2011, and February 15, 2012. Any request submitted after the required date will only be reviewed under limited circumstances. Generally, the delay in submission must be due to unusual or unforeseen, and unavoidable circumstances. If you are submitting Form 8944 after the required date, attach a statement to the form explaining the reason(s) why it is being submitted late.

Where To File

Mail the completed Form 8944 and any required attachments to:

Internal Revenue Service
Attn: EFU Waiver
P.O. Box 4099
Stop 983
Woburn, MA 01888-4099

Allow 4-6 weeks to receive notification of approval or denial of your waiver request.

Approval of Waiver

If your waiver is approved, you should document your waiver reference number and approval letter date on line 2 of Form 8948. This should be done for each covered return you file on paper. See Form 8948 for more information.

Telephone Help

If you have a question about completing this form, or if you need to check on the status of a hardship waiver request that you have filed, call the IRS at 1-866-255-0654.

Specific Instructions

Line 1. Enter the calendar year for which you are requesting a hardship waiver. Indicate the type of submission by checking the "Original" or "Reconsideration" box. An original submission is your first request for a hardship waiver for the calendar year entered on this line. A reconsideration is when you are submitting additional information to the IRS that you feel may overturn the denial of an originally submitted request.

Line 2. Enter your name and complete address.

Line 3. You are required to enter your PTIN on line 3. Do not file Form 8944 until after you have received your PTIN. If you have not yet started the PTIN application process, go to the webpage www.irs.gov/ptin to apply for a PTIN.

Line 4. Enter the telephone number where we can contact you if we have questions about your hardship waiver request.

Line 5. If you are a tax return preparer in a firm and the members of the firm in the aggregate reasonably expect to file 11 or more covered returns during the calendar year for which you are requesting a hardship waiver, check the "Yes" box and enter your firm's name and EIN. If you are a tax return preparer who is not a member of a firm, check the "No" box.



If you are a tax return preparer who reasonably expects to file fewer than 11 covered returns during the calendar year for which you are requesting a hardship waiver, you may still be required to e-file the covered returns you prepare and file if you are a preparer who is a member of a firm. All tax return preparers in a firm must e-file the covered returns they prepare and file if the firm's preparers, in the aggregate, reasonably expect to file 11 or more covered returns in a calendar year.

Line 6. Check the box(es) beside the form(s) for which the hardship waiver is being requested.

Line 6(i). For each type of return checked, enter the total number of tax returns you filed in the calendar year before the calendar year entered on line 1.

Line 6(ii). For each type of return checked, enter an estimate of the total number of tax returns you expect to file in the calendar year entered on line 1. When determining this estimate, do not count returns that you reasonably expect your clients will choose to have completed in a paper format and will file with the IRS themselves. Also, do not count returns that you do not expect to e-file for various reasons. For example, do not count forms that cannot currently be filed electronically (such as Form 990-T, Form 1040NR, and Form 1041-QFT). For more information, see Notice 2011-26.

Line 6(iv). If you answered "Yes" to question 5, enter the number of tax returns all of the preparers in your firm reasonably expect to file in the calendar year entered on line 1. When determining this estimate, do not count any return that would be excluded for the reasons provided earlier in the instructions for line 6(ii).

Line 7. Check the appropriate box to indicate the reason for the hardship waiver request. Check only one box.

Line 7a. If you checked box 7a, you must attach a copy of the bankruptcy court documentation.

Line 7b. If you checked box 7b, you must complete lines 8 and 9. See *Line 8* and *Line 9*, below, for more information.

Line 7c or 7d. If you checked box 7c or 7d, you must complete line 9. See *Line 9*, below, for more information.

Line 8. Waivers filed for economic hardship must have line 8 completed. Enter the cost estimates from two third parties. These cost estimates must reflect the total amount that each third party will charge for purchasing a computer (if you do not have a computer), software, software upgrades, programming for your current system, and the costs to produce your electronic files. If you do not provide two written cost estimates from third parties, your request will be denied. Cost estimates must be calculated for the calendar year entered on line 1. A cost estimate calculated for a year other than the calendar year entered on line 1 will not be accepted.

 *If you are claiming economic hardship, your waiver will be denied unless you check box 7b and complete lines 8 and 9.*

Line 9. If you checked box 7b, 7c, or 7d, you must explain in detail the hardship that caused you to file this waiver. Waivers filed for economic hardship must include an explanation of how the estimated additional costs documented on line 8 would cause an economic hardship. Include in the explanation your average return preparation fees or annual net income generated by your preparation activities. Waivers filed for a Presidentially declared disaster must include documentation of the direct impact of the disaster on your ability to electronically file tax returns. Waivers filed for other hardships must provide complete

documentation detailing the hardship described on line 9 and the hardship's impact on your ability to electronically file tax returns. If you attach additional sheet(s), include on each sheet the name entered in line 2 and the PTIN entered on line 3.



A hardship waiver request based on the lack of an Electronic Filing Identification Number (EFIN) will not be considered. It is your responsibility to ensure that you have taken all steps to comply with the e-filing requirement.

Privacy Act and Paperwork Reduction Act Notice. We ask for the information on this form to carry out the Internal Revenue laws of the United States. Code section 6011(e)(3) generally requires specified tax return preparers to file income tax returns electronically that they prepare and file for individuals, estates, and trusts. Tax return preparers who meet the definition of specified tax return preparer use this form to request a hardship waiver from this general requirement. Requesting a hardship waiver is optional; however, if you request a hardship waiver, you must provide the information requested on this form. Section 6109 requires you to provide your identifying number. We may disclose this information to the Department of Justice for civil or criminal litigation and to cities, states, the District of Columbia, and U.S. Commonwealths or possessions to administer their tax laws. We may also disclose this information to other countries under a tax treaty, to federal and state agencies to enforce federal nontax criminal laws, or to federal law enforcement and intelligence agencies to combat terrorism. Failure to provide the requested information may prevent the processing of this form, providing false information may subject you to penalties. You are not required to provide the information requested on a form that is subject to the Paperwork Reduction Act unless the form displays a valid OMB control number. Books or records relating to a form must be retained as long as their contents may become material in the administration of any Internal Revenue law. Generally, tax returns and return information are confidential, as required by Code section 6103.

The time needed to provide this information would vary depending on individual circumstances. The estimated average time is:

- Recordkeeping** 5 hr., 44 min.
- Learning about the law or the form** 28 min.
- Preparing and sending the form** 1 hr., 46 min.

If you have comments concerning the accuracy of these time estimates or suggestions for making this form simpler, we would be happy to hear from you. You can write to the Internal Revenue Service, Tax Products Coordinating Committee, SE:W:CAR:MP:T:M:S, 1111 Constitution Ave. NW, IR-6526, Washington, DC 20224. Do not send this form to this office. Instead, see *Where To File*, earlier.